

SUPREME COURT - NASSAU COUNTY - IAS PART 29
PART RULES & PROCEDURES – Updated 2.15.13

Justice: HON. LEONARD D. STEINMAN
Law Clerk: CHUMI R. DIAMOND, ESQ.
Part Clerk: JOSEPH BIENZ

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These rules are in addition to the Uniform Rules for New York State Trial Court and the Local Rules of Court.

I. ADJOURNMENTS

A. Motions and Conferences (other than Preliminary Conferences):

1. Applications to adjourn conferences or motions on consent must be received by Chambers (via facsimile) **48 hours prior** to the conference date or return date of the motion. Court approval is required for all adjournments.

Applications on consent **MUST** be made using the attached Request for Adjournment Form. The Request for Adjournment Form is to be filled out completely. Incomplete forms or forms received after 48 hours prior to the conference date or return date will be summarily denied, unless the Court is advised of extraordinary circumstances, which will be taken into consideration.

All attorneys, clients and Attorneys for the Child(ren) must be notified of all adjournment requests prior to said request.

2. Adjournment requests that are left on the Chamber's voice mail will be disregarded, absent extraordinary circumstances.
3. If all parties do not consent to the adjournment, a timely application shall be made by conference call, with all counsel **no later than 3:00 p.m.** on the day preceding the scheduled conference or the motion.

II. PRELIMINARY CONFERENCES

1. Counsel are directed to confer with each other at least 72 hours prior to the preliminary conference and complete the Uniform Preliminary Conference Form. It is presumed by the Court that all discovery (including the selection of experts and the receipt of any forensic reports) will be completed within six months of the preliminary conference date. **A copy of the completed Uniform Preliminary Conference Form should be faxed to the Court by plaintiff's counsel by 12:00 p.m. of the business day prior to the scheduled preliminary conference together with a copy of the pleadings and Net Worth Statements, if not already filed.**
2. Adjournments of the Preliminary Conference will **not** be granted, absent a compelling reason. Counsel are directed to review the provisions of 22 NYCRR §202.16(f) concerning conferences.
3. Discovery, Certification, and Note of Issue deadlines will be strictly enforced. Deadlines may not be extended absent prior approval by the Court.

III. MOTIONS

A. Pre-Motion Rules:

1. Except in an emergency situation or where an affirmation is presented demonstrating that there will be significant prejudice to the moving party by giving prior notice, prior to making any motion the moving party is required to serve a written notice to the opposing party of the intention to make the motion and the relief that will be sought and offer to make a good faith attempt to resolve the matter.
2. The non-moving party is required to respond in writing to the moving party, setting forth consents and/or objections to the relief requested, within 48 business hours of receipt of the written notice from the moving party.
3. Absent emergency, prior to making or filing any motions, brought by Notice of Motion or Order to Show Cause, counsel for the moving party must serve the Court with written notice, not to exceed two double spaced pages in length, of his/her intention to make the motion and the relief that will be sought. Counsel must submit to the Court, with its letter, proof of compliance with the above mentioned notification requirement, which will include copies of both counsel's letters. Other parties must respond within 48 business hours. The Court will determine whether a conference call will be held to discuss the issues involved and a possible resolution or to set a motion schedule. The Attorney for the Child(ren) must also be notified and included in any conference call held pursuant to this paragraph. Counsel

fully familiar with the matter and with authority to bind his/her client must be available to participate in the conference call.

B. Submission of the Motion:

1. Motions may be made returnable on any weekday. The parties should indicate whether oral argument is being requested. If the Court determines that oral argument will be held (whether or not oral argument has been requested) the parties will be notified. Motions will not be deemed submitted until this determination has been made by the Court and the parties have been notified.
2. Appearances of counsel and parties are **not** required on motion return dates, except *pendite lite* applications. However, all counsel and parties are required to appear on all motion return dates for any post-judgment matter.
3. All exhibits must be clearly tabbed. Motions that are not consistent with this rule will be rejected and returned to counsel.
4. Except for good cause shown, no affidavit or affirmation upon a motion or in response or reply shall exceed fifteen (15) pages (double spaced) in length. Affidavits and/or affirmations in excess of the above limits will be returned to counsel.
5. No sur-reply will be accepted or considered by the Court without leave of the Court.
6. All motions seeking *pendente lite* relief must include a completed temporary maintenance guidelines worksheet utilizing each party's gross income for the most recent tax year after FICA/Medicare taxes have been deducted.
7. Any motion seeking an award of counsel fees must be supported by a detailed affirmation of services.

IV. COURT APPEARANCES

- A. All Court appearances, including preliminary, compliance, motion, status, and pre-trial conferences will be scheduled for either 9:30 a.m., 10:30 a.m., 11:30 a.m. and 2:30 p.m., and any other time the Court may deem appropriate. Parties need not be present unless otherwise provided for in these Rules or as ordered by the Court.
- B. All counsel are expected to be prompt for their scheduled appearance.
- C. All parties and attorneys are required to be present for an appearance in any **post-judgment** matter, **preliminary conference, or certification conference**.

- D. Where there are no outstanding disputes or issues between the parties, status and compliance conferences will be conducted via telephone conference to be initiated by the Plaintiff. If there are any disputes counsel will be expected to appear.
- E. At the time of the conference/trial, the law clerk and/or Judge must be informed of any outstanding pending or submitted motion(s). The submission date must be provided by counsel. Copies of the motions should be available to the Court at the time of such conference if there is an appearance.

V. COMMUNICATION WITH CHAMBERS

- A. All written communications with chambers must include the title of the action, full names of the parties, date the matter is next on the Court's calendar, and index number with copies simultaneously delivered to all counsel. *Ex parte* written communications will be disregarded.
- B. Copies of correspondence between counsel should not be sent to the Court. Copies of communications between counsel that are received by the Court will be disregarded and will not be placed in the Court's file.
- C. No out of Court settlement will be recognized or accepted unless counsel submits a letter, on notice to opposing counsel, and the Attorney for the Child(ren), if applicable, enclosing the executed settlement agreement/stipulation or certifying that such agreement/stipulation has, in fact, been executed.

VI. TRIAL RULES: APPLICABLE TO ALL TRIALS AND HEARINGS

- A. **Certification/Settlement Conference:** The certification conference will also serve as a settlement conference and all parties are required to appear.
- B. **Note of Issue and Statement of Proposed Disposition:** The Note of Issue and Certificate of Readiness are to be filed within 30 days after certification, unless otherwise instructed by the Court. A Statement of Proposed Disposition must be filed with proof of service along with the Note of Issue. 22 NYCRR §202.16(h).
- C. **Pre-Trial Conference:** After a matter has been certified as trial-ready, the Court may set a date for a pre-trial conference. Pre-trial conferences will be scheduled approximately one week prior to the trial date. Trial counsel must attend.
- D. **Pre-Trial Order:** At least forty-eight hours prior to the pre-trial conference, the parties must submit to the court for approval a **joint** pre-trial order which must include the following:
 - 1. The full caption of the action.

2. The names, addresses (including firm name), telephone and fax numbers for trial counsel.
3. A brief summary by each party of the issues that remain to be tried (without recital of evidentiary matter) and the parties proposed disposition of each issue with reference to statutory criteria.
4. A statement by each party as to the number of trial days needed.
5. Any stipulations or statements of fact or law which have been agreed upon by the parties.
6. A statement by each party as to the witnesses whose testimony is to be offered in its case in chief, indicating whether that witness will testify in person or by deposition.
7. A designation by each party of deposition testimony to be offered in its case in chief, with any cross designations and objections by any other party.
8. A list by each party of exhibits to be offered in its case in chief, with a star indicating exhibits to which a party objects and the grounds for the objections.
9. Updated and sworn net worth statements.

VII. ADDITIONAL FILINGS RELATING TO TRIAL

1. *In limine* applications must be on notice to all parties, returnable at least one week prior to the first scheduled trial date.
2. If deposition transcripts are to be utilized, a complete copy of that deposition transcript should be available to the Court at trial. The parties must separately provide to the Court those portions of the deposition testimony to be offered into evidence.
3. Both sides have available at least four (4) copies of all exhibits, which are expected to be introduced into evidence.
4. Both sides must have available at least four (4) copies of any and all of the following:
 - a) relevant orders issued by another court, such as final orders of custody, support, or temporary or permanent orders of protection issued by the Family and/or Criminal Courts;

- b) any order of this Court that referred issues raised in motion practice to the trial of the action;
 - c) any relevant “so-ordered” stipulation of this Court, as well as transcripts of stipulations read into the record in open court during the pendency of the action; and,
 - d) any properly executed and acknowledged stipulation or agreement relating to material issues in this action.
5. Counsel are urged to stipulate that any issue relating to an award of counsel and expert fees be resolved by the court, without testimony, upon the submission of affirmations and other appropriate documentation from counsel.
6. All trials and hearings will continue **day-to-day** until completed, subject to the Court’s availability.
7. Objections should be stated without argument, except to simply state the ground(s) for the objection (*e.g.* hearsay, relevance, etc.). If further argument is appropriate, it will be invited by the Court.